

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

High-Cost Universal Service Support

Federal-State Joint Board on Universal
Service

WC Docket No. 05-337

CC Docket No. 96-45

**REPLY COMMENTS OF THE
RURAL TELECOMMUNICATIONS ASSOCIATIONS
CONSISTING OF
THE COLORADO TELECOMMUNICATIONS ASSOCIATION,
THE OREGON TELECOMMUNICATIONS ASSOCIATION AND
THE WASHINGTON INDEPENDENT TELECOMMUNICATIONS ASSOCIATION**

June 2, 2008

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I. INTRODUCTION AND SUMMARY

The Colorado Telecommunications Association, Oregon Telecommunications Association and Washington Independent Telecommunications Association (together the “Rural Telecommunications Associations”) welcome the opportunity to submit these Reply Comments pursuant to the Commission’s Notices of Proposed Rulemaking (“NPRMs”)¹ in this very important docket. The members of each of the Rural Telecommunications Associations participating in these Reply Comments are set forth in Appendix 1.

In these Reply Comments, the Rural Telecommunications Associations reiterate their support for elimination of the “Identical Support” rule.

With some conditions, the Rural Telecommunications Associations support the creation of the three funds recommended by the Joint Board.² The Rural Telecommunications Associations support the elimination of Interstate Access Support (“IAS”), Interstate Common Line Support (“ICLS”) and Local Switching Support (“LSS”) from the calculation of competitive eligible telecommunications carrier support.

The Rural Telecommunications Associations continue to caution against implementing reverse auctions for the high cost portion of the universal service fund. Reverse auctions should be used, if at all, on a trial basis with the Mobility Fund.

Finally, the Rural Telecommunications Associations see no need to cap the overall size of the universal service fund or individual elements of high-cost support.

¹ Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 08-22 (released January 29, 2008); Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 08-5 (released January 29, 2008); Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 08-4 (released January 29, 2008).

² Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, FCC 07J-4 (released November 20, 2007).

II. THE IDENTICAL SUPPORT RULE SHOULD BE ELIMINATED

A survey of the over one hundred twenty comments filed in response to the Commission's NPRMs reveals strong support for elimination of the identical support rule. Many state commissions support elimination of the identical support rule.³ As pointed out by the Ohio Public Utility Commission, to date competitive eligible telecommunications carriers ("CETCs" or "competitive ETCs") have enjoyed the benefit of receiving funds based on the identical support rule without obligations to serve all customers that incumbents bear.⁴

As Embarq points out, it is logically inconsistent to compensate a carrier for serving high cost areas when there is no evidence in the form of cost studies, filings or model results that areas being supported are high cost for that CETC.⁵

Of those supporting elimination of the identical support rule, most commenters argue that the CETCs need to move to actual costs.⁶ Those entities that oppose moving CETCs to their own costs argue that such a system would be burdensome.⁷ It is ironic that the CETCs that argue that they should remain on the incumbent's costs have no qualms about imposing the costs of the reporting system on the incumbents and benefiting from the incumbents having to bear that cost, but do not want to report their own costs for the purpose of receiving universal service funds. These arguments from the CETCs should be ignored.

³ See, e.g., Comments of the Oregon Public Utility Commission; Comments of the Florida Public Service Commission at p. 2-3; and Comments of the Alabama Public Service Commission.

⁴ Comments of Ohio Public Utility Commission at p. 5.

⁵ Comments of Embarq at p. 10.

⁶ See, e.g., Initial Comments of National Telecommunications Cooperative Association at p. 19; Comments of the American Association of Retired Persons at p. 58; and Texas Statewide Telephone Cooperative Comments at p. 10.

⁷ See, e.g., Comments of Sprint Nextel at p. 9.

III. ELIMINATING IAS, ICLS AND LSS SUPPORT FROM CETC FUNDING IS AN IMPORTANT FIRST STEP

The Rural Telecommunications Associations agree with comments filed by, among others, the Florida Public Service Commission that continuing IAS, ICLS and LSS support for CETCs just does not make sense.⁸ As stated by Embarq, “The rationale behind this conclusion is clear and sound: Wireless CETCs have never relied on access charges to cover their costs; therefore they have never demonstrated a legitimate need for the revenues produced by access charges or a legitimate need for the USF dollars that replace these access charges as a result of the Commission’s CALLS and MAG Orders” (citations omitted).⁹

IV. REVERSE AUCTIONS IF USED AT ALL, MUST BE USED ONLY IN CAREFULLY CONTROLLED AND LIMITED SITUATIONS SUCH AS THE MOBILITY FUND

Some argue that reverse auctions should not be used at all. Many, in fact most, argue that reverse auctions should not be used to allocate incumbent high-cost fund support. The highest level of support for the use of reverse auctions coming out of the filed comments is to use reverse auctions in limited and carefully controlled conditions such as for the Mobility Fund. The comments of NASUCA on this issue are illustrative of this position and are right on point as to why reverse auctions should not be used for the high-cost fund (or new POLR Fund):

NASUCA would initially state that the record supports the possible use of auctions for high-cost funding only in currently unserved territories. Auctions would be particularly appropriate as pilot programs for broadband or mobility service in such areas.

On the other hand, the redistribution of the current \$4.3 billion high cost fund using a reverse auction process is rightly opposed by a substantial and significant majority of commenters. This is based in part on the numerous comments received to date, including comments by NASUCA, that demonstrate the shortcomings of using an auction process to distribute existing high-cost support.

⁸ Comments of the Florida Public Service Commission at p. 3. See, also, Comments of TCA at p. 14.

⁹ Comments of Embarq at p. 12.

NASUCA's position is simple. It is unreasonable to think that the FCC can orchestrate the auction of existing high-cost rural territories currently served by incumbents who have invested billions of dollars to provide quality services to their customers, and have carrier of last resort ("COLR") (also referred to as "provider of last resort" or "POLR") responsibilities in those areas, without causing irreparable harm to the rural customers who were promised universal availability of quality communications services at affordable and reasonably comparable rates by the 1996 Telecommunications Act. NASUCA opposes the "replacement" auction process -- as opposed to a pilot program for unserved areas -- as unworkable, and the following comments will amplify our objections.¹⁰ (Footnote omitted.)

Some commenters, such as Qwest Communications International, Inc., support the use of reverse auctions, if they are to be used at all, for the broadband block grants.¹¹ Although, Qwest is quick to point out that:

...reverse auctions should not be used to distribute high-cost support where there is an existing provider. Such a proposed use raises significant concerns surrounding the existing network in the event the existing provider is not the successful bidder in the auction. The potential harmful impacts of a reverse auction on existing investment, future investment, and service quality, should discourage adopting this approach to distribution of federal high-cost support in existing service areas.¹²

The Oregon Public Utility Commission supports using reverse auctions "for mobility and broadband services." However, the Oregon Commission then cautions, "...we do not agree with the implication in the *Reverse Auctions NPRM* that a reverse auction mechanism is a good way to allocate funds for wireline voice services."¹³

NECA provides perhaps the best summary of the reasons contained in the existing record why reverse auctions should not be used for high-cost support:

After multiple rounds of comments and replies in this proceeding, the record still shows reverse auctions would harm universal service and consumers in rural and high cost areas. The following points, among others, have been made:

¹⁰ Comments of the National Association of State Utility Consumer Advocates on Using Reverse Auctions to Determine High-Cost Universal Service Support at p. 2-3.

¹¹ Comments of Qwest Communications International, Inc. at p. 7.

¹² Comments of Qwest Communications International, Inc. at p. 8.

¹³ Comments of the Public Utility Commission of Oregon at p. 2.

- Reverse auctions would not promote incentives for network build-out or promotion of advanced service offerings in rural America. Rural consumers will therefore not receive universal access to advanced broadband services.
- Auctions would eliminate the financial stability required by financial institutions helping to fund network build-out in rural areas. Thus, reverse auctions would place in jeopardy the objective of universal access to broadband Internet service in rural America.
- Quality of service will be degraded as the lowest bidder could provide service only at the level funded.
- There would be no incentive to build-out robust networks to support public safety, homeland security, and disaster recovery systems.¹⁴

What is most important in all of the comments that were filed on this subject are the concerns raised by the financial institutions that are at the heart of financing rural networks. As stated in the Comments of CoBank, ACB, under a reverse auction system:

Access to debt capital could be significantly reduced under a reverse auction system. Lenders require a high degree of certainty regarding a borrower's capacity to repay debt. There is a direct correlation between the ability of a borrower to repay debt capital and the amount of capital a lender is willing to make available to a borrower. The greater level of uncertainty about future cash flow, the lower the amount of debt capital available to a borrower. If a telecommunications provider is faced with the possibility of losing access to universal service support funding through a reverse auction system, lenders will restrict the amount of debt made available. This lack of access to capital could impair the ability of service providers of all types to meet the growing telecommunications needs of rural Americans.¹⁵

The Rural Telecommunications Associations urge the Commission to pay heed to the advice of the financial institutions such as CoBank that are heavily involved in financing rural networks.

¹⁴ Comments of the National Exchange Carrier Association, Inc. at p. 27.

¹⁵ Comments of CoBank, ACB at p. 4.

V. THERE IS GENERAL SUPPORT FOR THE CREATION OF THREE SEPARATE FUNDS

In reviewing the comments filed on or about April 17, 2008, there seems to be a moderate majority of comments that support the creation of three separate funds: Mobility, Broadband and Provider of Last Resort ("POLR"). However, that support is by no means universal. In addition, many of the commenters that offer initial support, such as the Rural Telecommunications Associations did in our initial comments, raise many concerns about the details related to the proposed Mobility Fund and Broadband Fund. For example, questions are raised as to whether underserved as well as unserved areas should be supported¹⁶ and whether the funds would siphon support out of the high cost fund and thereby damage universal service.¹⁷ The questions concerning the details of the Mobility Fund and Broadband Fund are well taken and the details need further development. This will take more time. As a result, the Rural Telecommunications Associations urge the Commission to take immediate action to eliminate the identical support rule and recast competitive ETC support without IAS, ICLS and LSS components. These are actions that can, and should, be taken while the details of the Mobility Fund and Broadband Fund are developed.

As to the POLR Fund, the Rural Telecommunications Associations join in the comments in those that point out that a cap on that fund is both unnecessary and improper. As stated by TDS, a cap on the overall size of the fund "is not warranted and actually would contravene the goals of universal service."¹⁸ TDS goes on to point out: "Artificially capping the Fund is generally inconsistent with the goals of universal service and the Congressional mandate that universal service remain 'sufficient' and an artificial cap likely would cause an immediate

¹⁶ Comments of Qwest Communications International, Inc. at p. 7.

¹⁷ Comments of NCTA at p. 19.

¹⁸ Comments of TDS Telecommunications Corporation at p. 8.

reduction in infrastructure build-out.”¹⁹ TDS then argues that capping individual elements of the high cost fund is also inappropriate:

Capping these elements is completely unnecessary: this particular part of the Fund is simply not growing to any meaningful extent and, consequently, does not threaten the sustainability of the Fund. Meanwhile, the Commission should recognize that capping any individual component of legacy funding (e.g., interstate common line support) has ramifications for the incentives of carrier investment throughout the network, is in conflict with the Commission’s rate of return regime, and would require additional rule changes not contemplated in the record to be effectuated in this proceeding.²⁰

The Rural Telecommunications Associations agree with the analysis presented by TDS.

Indeed, the FCC’s own recent order freezing CETC support amply demonstrates that there is no need for a cap. As the Commission points out in discussing why there is a need to cap competitive ETC support, incumbent carriers received high cost support in the following amounts: \$3.136 billion in 2003; \$3.153 billion in 2004; \$3.169 billion in 2005; \$3.116 billion in 2006; and \$3.108 billion in 2007.²¹ These amounts show a consistent level of support which has even declined slightly. The factual basis for a cap on incumbent support simply does not exist.

VI. CONCLUSION

The Rural Telecommunications Associations urge the Commission to take immediate action to eliminate the identical support rule and, as an interim measure of reform, to remove IAS, ICLS and LSS support from the calculation of support for competitive ETCs.

The Rural Telecommunications Associations ask that the Commission move carefully in the creation of separate funds. The Telecommunications Associations urge the Commission not

¹⁹ Ibid.

²⁰ Comments of TDS Telecommunications Corporation at p. 9.

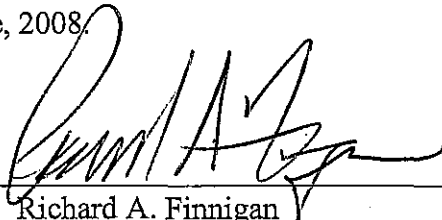
²¹ In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order, FCC 08-122 (released May 1, 2008) at footnote 25.

to implement reverse auctions for the POLR Fund. If reverse auctions are to be implemented at all, the Commission should start with the Mobility Fund to see whether or not reverse auctions are actually capable of functioning as contemplated by the Commission in rural America.

Finally, as demonstrated by the Commission's own findings, there is no need to cap the existing high cost fund or its components or a newly created POLR Fund.

Respectfully submitted this 2nd day of June, 2008.

By: _____


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Association and the Washington
Independent Telecommunications
Association

APPENDIX 1

Colorado Telecommunications Association

Agate Mutual Telephone Co-Op Association
Big Sandy Telecom, Inc.
Blanca Telephone Co.
CenturyTel
Columbine Telecom Co.
Delta County Tele-Com, Inc.
Dubois Telephone Exchange, Inc.
Eastern Slope Rural Telephone Association, Inc.
Farmers Telephone Co., Inc.
Haxtun Telephone Co.
Nucla Naturita Telephone Co.
Nunn Telephone Co.
Peetz Cooperative Telephone Co.
Phillips County Telcom
Pine Drive Telephone Co.
Plains Cooperative Telephone Association, Inc.
Rico Telephone Co.
Roggen Telephone Cooperative Co.
Rye Telephone Co.
South Park Telephone Co.
Stoneham Cooperative Telephone Corp.
Strasburg Telephone Co.
Sunflower Telephone Co., Inc.
Union Telephone Co.
Wiggins Telephone Association
Willard Telephone Co.

Oregon Telecommunications Association

Asotin Telephone Company d/b/a TDS Telecom
Beaver Creek Cooperative Telephone Company
Canby Telephone Association d/b/a Canby Telecom
Cascade Utilities, Inc.
CenturyTel of Oregon, Inc.
CenturyTel of Eastern Oregon, Inc.
Clear Creek Telephone & Television
Colton Telephone Company
Eagle Telephone System, Inc.
Gervais Telephone Company
Helix Telephone Company
Home Telephone Company d/b/a TDS Telecom
Midvale Telephone Exchange
Molalla Communications, Inc. d/b/a Molalla Communications
Monitor Cooperative Telephone Company
Monroe Telephone Company
Mt. Angel Telephone Company
Nehalem Telecommunications, Inc.
North-State Telephone Co.
Oregon-Idaho Utilities, Inc.
Oregon Telephone Corporation
People's Telephone Co.
Pine Telephone System, Inc.
Pioneer Telephone Cooperative
Roome Telecommunications Inc.
St. Paul Cooperative Telephone Association
Scio Mutual Telephone Association
Stayton Cooperative Telephone Company
Trans-Cascades Telephone Company

Washington Independent Telecommunications Association

Asotin Telephone Company d/b/a TDS Telecom
CenturyTel of Cowiche, Inc.
CenturyTel of Inter-Island, Inc.
CenturyTel of Washington, Inc.
Ellensburg Telephone Company d/b/a FairPoint Communications
Hat Island Telephone Company
Hood Canal Telephone Co., Inc. d/b/a Hood Canal Communications
Inland Telephone Company
Kalama Telephone Company
Lewis River Telephone Company, Inc. d/b/a TDS Telecom
Mashell Telecom, Inc. d/b/a Rainier Connect
McDaniel Telephone Co. d/b/a TDS Telecom
Pend Oreille Telephone Company
Pioneer Telephone Company
St. John Co-operative Telephone and Telegraph Company
Tenino Telephone Company
The Toledo Telephone Co., Inc.
Western Wahkiakum County Telephone Company d/b/a Wahkiakum West
Whidbey Telephone Company
YCOM Networks, Inc. d/b/a FairPoint Communications